

## PREPRINT SENATE BILL No. 3

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**Proposed by Senator Wolk**

August 4, 2009

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SB 3 2009

An act to amend Sections 29702, 29725, 29727, 29733, 29735, 29735.1, 29738, 29741, 29751, 29752, 29754, 29756.5, 29765, 29771, and 29780 of, to add Sections 29703.5, 29722.5, 29728.5, 29759, 29763.1, 29763.2, 29763.3, 29773, 29773.5, and 29778.5 to, to add Division 22.3 (commencing with Section 32300) to, to repeal Sections 29762 and 29763.5 of, and to repeal and add Sections 29736, 29739, 29753, 29760, 29761, 29761.5, 29763, and 29764 of, the Public Resources Code, relating to Sacramento-San Joaquin Delta.

### legislative counsel's digest

Preprint SB 3, as proposed, Wolk. Delta Protection Commission: Sacramento-San Joaquin Delta Conservancy.

(1) Existing law requires various state agencies to administer programs relating to water supply, water quality, and flood management in the Sacramento-San Joaquin Delta. The Johnston-Baker-Andal-Boatwright Delta Protection Act of 1992 (Delta Protection Act) creates the Delta Protection Commission and requires the commission to prepare and adopt a comprehensive long-term resource management plan for specified lands within the Sacramento-San Joaquin Delta. Existing law requires the Secretary of the Resources Agency to convene a committee to develop and submit to the Governor and the Legislature, on or before December 31, 2008, recommendations for implementing a specified strategic plan relating to the sustainable management of the Delta.

This bill would revise and recast the provisions of the Delta Protection Act to, among other things, reduce the number of members to 15 members, as specified. The bill would require the commission to appoint

at least one advisory committee consisting of representatives from specified entities to provide input regarding the diverse interests within the Delta. The bill would require the commission to adopt, not later than July 1, 2011, a comprehensive resources management plan containing specified elements and would require the commission to update the plan every 5 years. The resources management plan would be approved by a council that would be created pursuant to \_\_\_\_\_ of the 2009–10 Regular Session and would be implemented by the commission.

The bill would require all general plans of cities and counties within the Delta to be consistent with the resources management plan, as determined by the commission, thereby imposing a state-mandated local program. The bill would revise and recast the process by which local governments are required to submit proposed general plan amendments to ensure that the general plan is consistent with the resources management plan. The bill would require the commission to prepare and submit to the Legislature, by January 1, 2012, recommendations on the potential expansion of the primary zone.

The bill would require the commission to develop a regional economic development plan for the Delta region in accordance with specified requirements. The bill would establish the Delta Investment Fund in the State Treasury. Moneys in the fund, upon appropriation by the Legislature, would be required to be expended by the commission to implement the regional economic development plan.

The bill would establish in the Natural Resources Agency the Sacramento-San Joaquin Delta Conservancy. The conservancy would be required to support efforts that advance environmental protection and the economic well-being of Delta residents. The bill would specify the composition of the conservancy and grant certain authority to the conservancy, including the authority to acquire real property interests from willing sellers or transferors. The conservancy would be required to prepare and adopt a strategic plan to achieve the goals of the conservancy. The strategic plan would be required to be consistent with the Delta Plan adopted pursuant to \_\_\_\_\_ of the 2009–10 Regular Session and certain other plans. The bill would establish the Sacramento-San Joaquin Delta Conservancy Fund in the State Treasury. Moneys in the fund would be available, upon appropriation, to finance projects, including ecosystem restoration and regional sustainability projects, within and outside the Delta and Suisun Marsh if certain requirements are met.

These provisions would only become operative if \_\_\_\_ of the 2009–10 Regular Session of the Legislature are each enacted and become effective on or before January 1, 2010.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 29702 of the Public Resources Code is  
2 amended to read:

3 29702. The Legislature further find and declares that the basic  
4 goals of the state for the ~~delta~~ Delta are the following:

5 (a) *Achieve the coequal goals of assuring a reliable water supply*  
6 *for California and protecting, restoring, and enhancing the Delta*  
7 *ecosystem and the unique cultural, recreational, and agricultural*  
8 *values of the Delta as an evolving place.*

9 ~~(a)~~  
10 (b) Protect, maintain, and, where possible, enhance and restore  
11 the overall quality of the delta environment, including, but not  
12 limited to, agriculture, wildlife habitat, and recreational activities.

13 ~~(b) Assure~~

14 (c) *Ensure* orderly, balanced conservation and development of  
15 delta land resources.

16 ~~(c)~~  
17 (d) Improve flood protection by structural and nonstructural  
18 means to ensure an increased level of public health and safety.

19 SEC. 2. Section 29703.5 is added to the Public Resources Code,  
20 to read:

21 29703.5. The Legislature further find and declares both of the  
22 following:

23 (a) The Delta Protection Commission created pursuant to Section  
24 29735 provides an existing forum for Delta residents to engage in  
25 decisions regarding actions to recognize and enhance the unique

1 cultural, recreational, and agricultural resources of the Delta. As  
2 such, the commission is the appropriate agency to identify and  
3 provide recommendations to the Delta Stewardship Council on  
4 methods of preserving the Delta as an evolving place as the Delta  
5 Stewardship Council develops and implements the Delta Plan.

6 (b) There is a need for the five Delta counties to establish and  
7 implement a resources management plan for the Delta and for the  
8 Delta Stewardship Council to consider that plan and  
9 recommendations of the commission in the adoption of the Delta  
10 Plan.

11 SEC. 3. Section 29722.5 is added to the Public Resources Code,  
12 to read:

13 29722.5. "Delta Plan" means the plan adopted by the Delta  
14 Stewardship Council pursuant to Section 85300 of the Water Code.

15 SEC. 4. Section 29725 of the Public Resources Code is  
16 amended to read:

17 29725. "Local government" means the Counties of Contra  
18 Costa, Sacramento, San Joaquin, Solano, and Yolo, and the Cities  
19 of Sacramento, Stockton, Tracy, Antioch, Pittsburg, Isleton,  
20 Lathrop, Brentwood, ~~Rio Vista~~, West Sacramento, and Oakley,  
21 and any other cities that may be incorporated in the future in the  
22 primary zone.

23 SEC. 5. Section 29727 of the Public Resources Code is  
24 amended to read:

25 29727. "Port" means the Port of Sacramento and the Port of  
26 Stockton, including all the land owned or leased by those ports *or*  
27 *potential sites identifiedn the Delta county g eneral plans as of*  
28 *the date of the amendment of this section at the 2009–10 Regular*  
29 *Session of the Legislature and otherwise authorized by law.*

30 SEC. 6. Section 29728.5 is added to the Public Resources Code,  
31 to read:

32 29728.5. "Resourcesmanagementplan" means the plan adopted  
33 by the commission pursuant to Section 29760.

34 SEC. 7. Section 29733 of the Public Resources Code is  
35 amended to read:

36 29733. "Unincorporated towns" means the communities of  
37 Walnut Grove, Clarksburg, Courtland, Hood, Locke, *Knightsen*,  
38 *Collinsville*, and Ryde.

39 SEC. 8. Section 29735 of the Public Resources Code is  
40 amended to read:

29735. There is hereby created the Delta Protection Commission consisting of ~~23~~ 15 members as follows:

(a) One member of the board of supervisors, or his or her designee, of each of the five counties within the ~~delta~~ Delta whose supervisorial district is within the primary zone shall be appointed by the board of supervisors of ~~the county~~ each of those respective counties.

(b) (1) Three elected city council members shall be selected and appointed by city selection committees, from ~~regional and area councils of government~~ the appropriate regions specified below, one in each of the following areas:

(A) One from the north ~~delta~~ Delta, ~~consisting of~~ from either the ~~Counties~~ County of Yolo and or the County of Sacramento, on a rotating basis.

(B) One from the south ~~delta~~ Delta, consisting of the County of San Joaquin.

(C) One from the west ~~delta~~ Delta, ~~consisting of~~ from either the ~~Counties~~ County of Contra Costa and or the County of Solano, on a rotating basis.

(2) A city council member may select a designee for purposes of paragraph (1).

(3) Notwithstanding Section 29736, the term of office of the members selected pursuant to this subdivision shall be two years.

(c) ~~(1)~~ One member each from the board of directors of ~~five~~ three different reclamation districts that are located within the primary zone who are residents of the ~~delta~~ Delta, and who are elected by the trustees of reclamations districts within the following areas: pursuant to paragraphs (1), (2), and (3). Each reclamation district may nominate one director to be a member. The member from an area shall be selected from among the nominees by a majority vote of the reclamation districts in that area. The member may select a designee for this purpose. For the purposes of this section, each reclamation district shall have one vote.

~~(A) Two members~~

(1) One member from the area of the North Delta Water Agency as described in Section 9.1 of the North Delta Water Agency Act (Chapter 283 of the Statutes of 1973), ~~provided at least one member is also a member of the Delta Citizens Municipal Advisory Council.~~

~~(B)~~

1 (2) One member from *an area including the west-delta Delta*  
2 *consisting of the area of Contra Costa County within the-delta*  
3 *Delta and the Central Delta Water Agency as described in Section*  
4 *9.1 of the Central Delta Water Agency Act (Chapter 1133 of the*  
5 *Statutes of 1973).*

6 ~~(C) One member from the area of the Central Delta Water~~  
7 ~~Agency as described in Section 9.1 of the Central Delta Water~~  
8 ~~Agency Act (Chapter 1133 of the Statutes of 1973).~~

9 ~~(D)~~

10 (3) One member from the area of the South Delta Water Agency  
11 as described in Section 9.1 of the South Delta Water Agency Act  
12 (Chapter 1089 of the Statutes of 1973).

13 ~~(2) Each reclamation district may nominate one director to be~~  
14 ~~a member. The member from an area shall be selected from among~~  
15 ~~the nominees by a majority vote of the reclamation districts in that~~  
16 ~~area. The member may select a designee for this purpose. For~~  
17 ~~purposes of this section, each reclamation district shall have one~~  
18 ~~vote. The north delta area shall conduct separate votes to select~~  
19 ~~each of its two members.~~

20 ~~(d) The Director of Parks and Recreation, or the director's sole~~  
21 ~~designee.~~

22 ~~(e) The Director of Fish and Game, or the director's sole~~  
23 ~~designee.~~

24 ~~(f)~~

25 ~~(d) The Secretary of Food and Agriculture, or the secretary's~~  
26 ~~sole designee.~~

27 ~~(g)~~

28 ~~(e) The executive officer of the State Lands Commission, or the~~  
29 ~~executive officer's sole designee.~~

30 ~~(h) The Director of Boating and Waterways, or the director's~~  
31 ~~sole designee.~~

32 ~~(i) The Director of Water Resources, or the director's sole~~  
33 ~~designee.~~

34 ~~(j) The public member of the California Bay-Delta Authority~~  
35 ~~who represents the delta region or his or her designee.~~

36 ~~(k) (1) The Governor shall appoint three members and three~~  
37 ~~alternates from the general public who are delta residents or delta~~  
38 ~~landowners, as follows:~~

1 ~~(A) One member and one alternate shall represent the interests~~  
2 ~~of production agriculture with a background in promoting the~~  
3 ~~agricultural viability of delta farming.~~

4 ~~(B) One member and one alternate shall represent the interests~~  
5 ~~of conservation of wildlife and habitat resources of the delta region~~  
6 ~~and ecosystem.~~

7 ~~(C) One member and one alternate shall represent the interests~~  
8 ~~of outdoor recreational opportunities, including, but not limited~~  
9 ~~to, hunting and fishing.~~

10 ~~(2) An alternate may serve in the absence of a member.~~

11 ~~(f) The Secretary of the Natural Resources Agency, or his or~~  
12 ~~her sole designee.~~

13 ~~(g) The Secretary of Business, Transportation and Housing, or~~  
14 ~~his or her sole designee.~~

15 SEC. 9. Section 29735.1 of the Public Resources Code is  
16 amended to read:

17 29735.1. (a) A member of the commission described in  
18 subdivision (a), ~~(b), (c), or (j)~~ of Section 29735 may, subject to  
19 the confirmation of his or her appointing power, appoint an  
20 alternate to represent him or her at a commission meeting. An  
21 alternate may serve prior to confirmation for a period not to exceed  
22 90 days from the date of appointment, unless and until confirmation  
23 is denied.

24 (b) The alternate shall serve at the pleasure of the member who  
25 appoints him or her and shall have all of the powers and duties of  
26 a member of the commission, except that the alternate shall only  
27 participate and vote in a meeting in the absence of the member  
28 who appoints him or her. All provisions of law relating to conflicts  
29 of interest that are applicable to a member shall apply to an  
30 alternate. ~~Whenever~~ If a member has, or is known to have, a  
31 conflict of interest on any matter, the member's alternate is  
32 ineligible to vote on that matter.

33 SEC. 10. Section 29736 of the Public Resources Code is  
34 repealed.

35 ~~29736. The term of office of the members of the commission~~  
36 ~~shall be for four years, and a member may serve for one or more~~  
37 ~~consecutive terms.~~

38 SEC. 11. Section 29736 is added to the Public Resources Code,  
39 to read:

1 29736. The appointed members of the commission shall serve  
2 at the pleasure of their appointing entities.

3 SEC. 12. Section 29738 of the Public Resources Code is  
4 amended to read:

5 29738. ~~The position office of a~~ *an appointed* member of the  
6 commission ~~shall be considered~~ *is* vacated upon the loss of any  
7 qualification required for appointment, and in that event the  
8 appointing authority shall appoint a successor within 30 days of  
9 the occurrence of the vacancy. ~~Upon the occurrence of the first~~  
10 ~~vacancy among any of the members listed in subdivision (d), (e),~~  
11 ~~(f), (g), (h), or (i) of Section 29735, the Director of Conservation~~  
12 ~~or the director's designee shall serve as the successor member.~~

13 SEC. 13. Section 29739 of the Public Resources Code is  
14 repealed.

15 ~~29739. The commission shall elect from its own members a~~  
16 ~~chairperson and vice chairperson whose terms of office shall be~~  
17 ~~two years, and who may be reelected. If a vacancy occurs in either~~  
18 ~~office the commission shall fill the vacancy for the unexpired~~  
19 ~~term.~~

20 SEC. 14. Section 29739 is added to the Public Resources Code,  
21 to read:

22 29739. (a) The commission, during the first meeting of the  
23 commission after January 1, 2010, shall elect from among the  
24 members identified in subdivision (a) of Section 29735 a  
25 chairperson who shall serve for one year.

26 (b) Subsequent chairpersons shall serve for two years and shall  
27 be elected from among the members identified in subdivision (a)  
28 of Section 29735.

29 (c) The chairperson shall serve as a voting member of the Delta  
30 Stewardship Council.

31 SEC. 15. Section 29741 of the Public Resources Code is  
32 amended to read:

33 29741. The time and place of the first meeting of the  
34 commission *after January 1, 2010*, shall be prescribed by the  
35 Governor, but in no event shall it be scheduled for a date later than  
36 January 31, ~~1993~~ *2010*. All meetings after the first meeting shall  
37 be held in a city within the ~~delta~~ *Delta*.

38 SEC. 16. Section 29751 of the Public Resources Code is  
39 amended to read:



1 29751. A majority of the voting members of the commission  
2 shall constitute a quorum for the transaction of the business of the  
3 commission. A majority vote of the voting members ~~present~~ shall  
4 be required to take action with respect to any matter unless  
5 otherwise specified in this division. The vote of each member shall  
6 be individually recorded.

7 SEC. 17. Section 29752 of the Public Resources Code is  
8 amended to read:

9 29752. The commission shall adopt its own rules, regulations,  
10 and procedures necessary for its organization and operation, *and*  
11 *shall conduct its meeting in compliance with the Bagley-Keene*  
12 *Open Meeting Act (Article 9 (commencing with Section 11120) of*  
13 *Chapter 1 of Part 1 of Division 3 of Title 2 of the Government*  
14 *Code).*

15 SEC. 18. Section 29753 of the Public Resources Code is  
16 repealed.

17 ~~29753. The commission shall appoint agricultural,~~  
18 ~~environmental, and recreational advisory committees for the~~  
19 ~~purpose of providing the commission with timely comments,~~  
20 ~~advice, and information. The commission may appoint committees~~  
21 ~~from its membership or may appoint additional advisory~~  
22 ~~committees from members of other interested public agencies and~~  
23 ~~private groups. The commission shall seek advice and~~  
24 ~~recommendations from advisory committees appointed by local~~  
25 ~~government which are involved in subject matters affecting the~~  
26 ~~delta.~~

27 SEC. 19. Section 29753 is added to the Public Resources Code,  
28 to read:

29 29753. (a) The commission shall appoint at least one advisory  
30 committee to provide recommendations regarding the diverse  
31 interests within the Delta. At a minimum, the advisory committees  
32 shall include representatives of state agencies and other  
33 stakeholders with interests in the Delta's ecosystem, water supply,  
34 and socioeconomic sustainability, including, but not limited to, its  
35 recreational, agricultural, flood control, environmental, and water  
36 resources, and state, local, and utility infrastructure. The  
37 commission shall encourage participation of various federal  
38 agencies, including the United States Bureau of Reclamation, the  
39 United States Fish and Wildlife Service, the United States Army  
40 Corps of Engineers, and others as appropriate.

(b) The commission may appoint committees from its membership or may appoint additional advisory committees from members of other interested public agencies and private groups.

(c) The commission shall seek advice and recommendations from advisory committees appointed by local government that are involved in subject matters affecting the Delta.

SEC. 20. Section 29754 of the Public Resources Code is amended to read:

29754. The commission shall establish and maintain an office within the ~~delta~~ *Delta or the City of Rio Vista*, and for this purpose the commission may rent or own property and equipment. Any rule, regulation, procedure, plan, or other record of the commission which is of such a nature as to constitute a public record under state law shall be available for inspection and copying during regular office hours.

SEC. 21. Section 29756.5 of the Public Resources Code is amended to read:

29756.5. The commission may act as the facilitating agency for the implementation of any joint habitat restoration or enhancement programs located within the primary zone of the ~~delta~~ *Delta, including, but not limited to, a national heritage area designation in the Delta.*

SEC. 22. Section 29759 is added to the Public Resources Code, to read:

29759. (a) The commission shall develop a regional economic development plan for the Delta region in accordance with Section 85301 of the Water Code.

(b) The policies in the regional economic development plan shall be based on local plans.

(c) The regional economic development plan shall identify ways to encourage recreational investment along the key river corridors, as appropriate.

SEC. 23. Section 29760 of the Public Resources Code is repealed.

~~29760. (a) Not later than October 1, 1994, the commission shall prepare and adopt, by a majority vote of the membership of the commission, and thereafter review and maintain, a comprehensive long-term resource management plan for land uses within the primary zone of the delta. The resource management plan shall consist of the map of the primary zone and text or texts~~

1 ~~setting forth a description of the needs and goals for the delta and~~  
2 ~~a statement of the policies, standards, and elements of the resource~~  
3 ~~management plan.~~

4 ~~(b) The resource management plan shall meet the following~~  
5 ~~requirements:~~

6 ~~(1) Protect and preserve the cultural values and economic vitality~~  
7 ~~that reflect the history, natural heritage, and human resources of~~  
8 ~~the delta.~~

9 ~~(2) Conserve and protect the quality of renewable resources.~~

10 ~~(3) Preserve and protect agricultural viability.~~

11 ~~(4) Restore, improve, and manage levee systems by promoting~~  
12 ~~strategies, including, but not limited to, methods and procedures~~  
13 ~~which advance the adoption and implementation of coordinated~~  
14 ~~and uniform standards among governmental agencies for the~~  
15 ~~maintenance, repair, and construction of both public and private~~  
16 ~~levees.~~

17 ~~(5) Preserve and protect delta dependent fisheries and their~~  
18 ~~habitat.~~

19 ~~(6) Preserve and protect riparian and wetlands habitat, and~~  
20 ~~promote and encourage a net increase in both the acreage and~~  
21 ~~values of those resources on public lands and through voluntary~~  
22 ~~cooperative arrangements with private property owners.~~

23 ~~(7) Preserve and protect the water quality of the delta, both for~~  
24 ~~instream purposes and for human use and consumption.~~

25 ~~(8) Preserve and protect open space and outdoor recreational~~  
26 ~~opportunities.~~

27 ~~(9) Preserve and protect private property interests from~~  
28 ~~trespassing and vandalism.~~

29 ~~(10) Preserve and protect opportunities for controlled public~~  
30 ~~access and use of public lands and waterways consistent with the~~  
31 ~~protection of natural resources and private property interests.~~

32 ~~(11) Preserve, protect, and maintain navigation.~~

33 ~~(12) Protect the delta from any development that results in any~~  
34 ~~significant loss of habitat or agricultural land.~~

35 ~~(13) Promote strategies for the funding, acquisition, and~~  
36 ~~maintenance of voluntary cooperative arrangements, such as~~  
37 ~~conservation easements, between property owners and conservation~~  
38 ~~groups that protect wildlife habitat and agricultural land, while not~~  
39 ~~impairing the integrity of levees.~~

1 ~~(14) Permit water reservoir and habitat development that is~~  
2 ~~compatible with other uses.~~

3 ~~(c) The resource management plan shall not supersede the~~  
4 ~~authority of local governments over areas within the secondary~~  
5 ~~zone.~~

6 ~~(d) To facilitate, in part, the requirements specified in paragraphs~~  
7 ~~(8), (9), (10), and (11) of subdivision (b), the commission shall~~  
8 ~~include in the resource management plan, in consultation with all~~  
9 ~~law enforcement agencies having jurisdiction in the delta, a strategy~~  
10 ~~for the implementation of a coordinated marine patrol system~~  
11 ~~throughout the delta that will improve law enforcement and~~  
12 ~~coordinate the use of resources by all jurisdictions to ensure an~~  
13 ~~adequate level of public safety. The strategic plan shall identify~~  
14 ~~resources to implement that coordination. The commission shall~~  
15 ~~have no authority to abrogate the existing authority of any law~~  
16 ~~enforcement agency.~~

17 ~~(e) To the extent that any of the requirements specified in this~~  
18 ~~section are in conflict, nothing in this division shall deny the right~~  
19 ~~of the landowner to continue the agricultural use of the land.~~

20 SEC. 24. Section 29760 is added to the Public Resources Code,  
21 to read:

22 29760. (a) Not later than July 1, 2011, the commission shall  
23 prepare and adopt, by a majority vote of the membership of the  
24 commission, a comprehensive resources management plan. The  
25 resources management plan shall include information and  
26 recommendations that inform the Delta Stewardship Council's  
27 policies regarding the socioeconomic sustainability of the Delta  
28 region.

29 (b) The resources management plan shall include, but not be  
30 limited to, all of the following:

31 (1) Public safety recommendations, such as flood protection  
32 recommendations.

33 (2) Economic elements of local general plans and other local  
34 economic efforts, including recommendations on continued  
35 socioeconomic sustainability of agriculture and its infrastructure  
36 and legacy communities in the Delta.

37 (3) Comments and recommendations to the Department of Water  
38 Resources concerning its periodic update of the flood management  
39 plan for the Delta.

40 (4) [PLACEHOLDER].

1 SEC. 25. Section 29761 of the Public Resources Code is  
2 repealed.

3 ~~29761. The Director of the Office of Planning and Research~~  
4 ~~shall submit comments and recommendations on the resource~~  
5 ~~management plan for the commission's consideration, prior to the~~  
6 ~~plan's adoption.~~

7 SEC. 26. Section 29761 is added to the Public Resources Code,  
8 to read:

9 29761. The commission shall adopt, by a majority vote, the  
10 resources management plan and each plan update after at least  
11 three public hearings, with at least one hearing held in a community  
12 in the north Delta, one in the south Delta, and one in the west Delta.

13 SEC. 27. Section 29761.5 of the Public Resources Code is  
14 repealed.

15 ~~29761.5. Not later than January 7, 1995, the commission shall~~  
16 ~~transmit copies of the resource management plan to the Governor.~~  
17 ~~Copies of the resource management plan shall be made available,~~  
18 ~~upon request, to Members of the Legislature.~~

19 SEC. 28. Section 29761.5 is added to the Public Resources  
20 Code, to read:

21 29761.5. (a) The commission shall update the resources  
22 management plan every five years on or before December 31 in  
23 years ending in six or one.

24 (b) The commission shall transmit copies of the resources  
25 management plan and its revisions to the Governor, Legislature,  
26 and Delta Stewardship Council within 60 days of adoption or  
27 revision. The Delta Stewardship Council shall review the resources  
28 management plan for consistency with the Delta Plan and approve  
29 the resources management plan. The approved resources  
30 management plan shall be implemented by the Delta Protection  
31 Commission.

32 SEC. 29. Section 29762 of the Public Resources Code is  
33 repealed.

34 ~~29762. The commission shall adopt, by a majority vote of the~~  
35 ~~membership of the commission, the resource management plan~~  
36 ~~after at least three public hearings, with at least one hearing held~~  
37 ~~in a city in the north delta, the south delta, and the west delta.~~

38 SEC. 30. Section 29763 of the Public Resources Code is  
39 repealed.

~~29763. Within 180 days from the date of the adoption of the resource management plan or any amendments, changes, or updates, to the resource management plan by the commission, all local governments shall submit to the commission proposed amendments that will cause their general plans to be consistent with the criteria in Section 29763.5 with respect to land located within the primary zone.~~

SEC. 31. Section 29763 is added to the Public Resources Code, to read:

29763. Within 180 days from the date of the Delta Stewardship Council's adoption of the Delta Plan or the commission's adoption of the resources management plan, whichever event occurs first, all local governments shall submit to the commission proposed general plan amendments and land use elements to make their general plans consistent with the resources management plan with respect to land use within the primary zone. Within 180 days of any amendments, changes, or updates to those general plans or land use elements, local governments shall submit to the commission proposed changes or updates to those general plans or land use elements of the Delta Plan and the resources management plan with respect to land use within the primary zone.

SEC. 32. Section 29763.1 is added to the Public Resources Code, to read:

29763.1. The commission shall act on proposed local government general plan amendments within 60 days from the date of submittal of the proposed amendments. The commission shall approve the proposed general plan amendments by a majority vote of the commission membership only after making a written finding that the proposed amendments are consistent with and in furtherance of the resources management plan, based on substantial evidence in the record.

SEC. 33. Section 29763.2 is added to the Public Resources Code, to read:

29763.2. In reviewing local government general plans or general plan amendments, the commission shall make written findings as to the potential impact of the proposed amendments, to the extent that those impacts will not increase requirements or restrictions upon agricultural practices in the primary zone, based on substantial evidence in the record, as follows:

1 (a) The general plan, and any development approved or proposed  
2 that is consistent with the general plan, will not result in wetland  
3 or riparian loss.

4 (b) The general plan, and any development approved or proposed  
5 that is consistent with the general plan, will not result in the  
6 degradation of water quality.

7 (c) The general plan, and any development approved or proposed  
8 that is consistent with the general plan, will not result in increased  
9 nonpoint source pollution.

10 (d) The general plan, and any development approved or proposed  
11 that is consistent with the general plan, will not result in the  
12 degradation or reduction of Pacific Flyway habitat.

13 (e) The general plan, and any development approved or proposed  
14 that is consistent with the general plan, will not result in reduced  
15 public access, provided the access does not infringe on private  
16 property rights.

17 (f) The general plan, and any development approved or proposed  
18 that is consistent with the general plan, will not expose the public  
19 to increased flood hazards.

20 (g) The general plan, and any development approved or proposed  
21 that is consistent with the general plan, will not adversely impact  
22 agricultural lands or increase the potential for vandalism, trespass,  
23 or the creation of public or private nuisances on public or private  
24 land.

25 (h) The general plan, and any development approved or proposed  
26 that is consistent with the general plan, will not result in the  
27 degradation or impairment of levee integrity.

28 (i) The general plan, and any development approved or proposed  
29 that is consistent with the general plan, will not adversely impact  
30 navigation.

31 (j) The general plan, and any development approved or proposed  
32 that is consistent with the general plan, will not result in any  
33 increased requirements or restrictions upon agricultural practices  
34 in the primary zone.

35 SEC. 34. Section 29763.3 is added to the Public Resources  
36 Code, to read:

37 29763.3. If the commission finds that the general plan is not  
38 consistent with the resources management plan, the commission  
39 shall remand the general plan back to the originating local  
40 government with findings based on substantial evidence in the

1 record and as approved by the commission, on items to be  
2 addressed. The local government shall have 120 days to make  
3 changes and resubmit the revised general plan to the commission  
4 for review pursuant to Section 29763.

5 SEC. 35. Section 29763.5 of the Public Resources Code is  
6 repealed.

7 ~~29763.5. The commission shall act on proposed local~~  
8 ~~government general plan amendments within 60 days from the~~  
9 ~~date of submittal of the proposed amendments. The commission~~  
10 ~~shall approve the proposed general plan amendments by a majority~~  
11 ~~vote of the commission membership, with regard to lands within~~  
12 ~~the primary zone, only after making all of the following written~~  
13 ~~findings as to the potential impact of the proposed amendments,—~~  
14 ~~to the extent that those impacts will not increase requirements or~~  
15 ~~restrictions upon agricultural practices in the primary zone, based~~  
16 ~~on substantial evidence in the record:~~

17 ~~(a) The general plan, and any development approved or proposed~~  
18 ~~that is consistent with the general plan, are consistent with the~~  
19 ~~resource management plan.~~

20 ~~(b) The general plan, and any development approved or proposed~~  
21 ~~that is consistent with the general plan, will not result in wetland~~  
22 ~~or riparian loss.~~

23 ~~(c) The general plan, and development approved or proposed~~  
24 ~~that is consistent with the general plan, will not result in the~~  
25 ~~degradation of water quality.~~

26 ~~(d) The general plan, and any development approved or proposed~~  
27 ~~that is consistent with the general plan, will not result in increased~~  
28 ~~nonpoint source pollution.~~

29 ~~(e) The general plan, and any development approved or proposed~~  
30 ~~that is consistent with the general plan, will not result in the~~  
31 ~~degradation or reduction of Pacific Flyway habitat.~~

32 ~~(f) The general plan, and any development approved or proposed~~  
33 ~~that is consistent with the general plan, will not result in reduced~~  
34 ~~public access, provided the access does not infringe on private~~  
35 ~~property rights.~~

36 ~~(g) The general plan, and any development approved or proposed~~  
37 ~~that is consistent with the general plan, will not expose the public~~  
38 ~~to increased flood hazard.~~

39 ~~(h) The general plan, and any development approved or proposed~~  
40 ~~that is consistent with the general plan, will not adversely impact~~



1 agricultural lands or increase the potential for vandalism, trespass,  
2 or the creation of public or private nuisances on public or private  
3 land.

4 (i) The general plan, and any development approved or proposed  
5 that is consistent with the general plan, will not result in the  
6 degradation or impairment of levee integrity.

7 (j) The general plan, and any development approved or proposed  
8 that is consistent with the general plan, will not adversely impact  
9 navigation.

10 (k) The general plan, and any development approved or proposed  
11 that is consistent with the general plan, will not result in any  
12 increased requirements or restrictions upon agricultural practices  
13 in the primary zone.

14 SEC. 36. Section 29764 of the Public Resources Code is  
15 repealed.

16 29764. This division does not confer any permitting authority  
17 upon the commission or require any local government to conform  
18 their general plan, or land use entitlement decisions, to the resource  
19 management plan, except with regard to lands within the primary  
20 zone. The resource management plan does not preempt local  
21 government general plans for lands within the secondary zone.

22 SEC. 37. Section 29764 is added to the Public Resources Code,  
23 to read:

24 29764. Land use authority granted to the commission by this  
25 division is limited to the primary zone, and shall not preempt local  
26 government general plans for lands within the secondary zone.

27 SEC. 38. Section 29765 of the Public Resources Code is  
28 amended to read:

29 29765. (a) Prior to the commission approving the general plan  
30 amendments of the local government, the local government may  
31 approve development within the primary zone only after making  
32 all of the following written findings on the basis of substantial  
33 evidence in the record:

34 (a)  
35 (1) The development will not result in wetland or riparian loss.

36 (b)  
37 (2) The development will not result in the degradation of water  
38 quality.

39 (c)

(3) The development will not result in increased nonpoint source pollution or soil erosion, including subsidence or sedimentation.

~~(d)~~

(4) The development will not result in degradation or reduction of Pacific Flyway habitat.

~~(e)~~

(5) The development will not result in reduced public access, provided that access does not infringe upon private property rights.

~~(f)~~

(6) The development will not expose the public to increased flood hazards.

~~(g)~~

(7) The development will not adversely impact agricultural lands or increase the potential for vandalism, trespass, or the creation of public or private nuisances on private or public land.

~~(h)~~

(8) The development will not result in the degradation or impairment of levee integrity.

~~(i)~~

(9) The development will not adversely impact navigation.

~~(j)~~

(10) The development will not result in any increased requirements or restrictions upon agricultural practices in the primary zone.

*(b) Subsequent to the approval by the commission of a general plan or general plan amendment, additional development shall not occur in the primary zone of the Delta unless the relevant proposed amendment to the general plan is determined to be consistent with the resources management plan.*

SEC. 39. Section 29771 of the Public Resources Code is amended to read:

29771. After a hearing on an appealed action pursuant to subdivision (a) or (b) of Section 29770, the commission shall either deny the appeal or remand the matter to the local government or local agency for reconsideration, after making specific findings. Upon remand, the local government or local agency shall modify the appealed action and resubmit the matter for review to the commission. A proposed action appealed pursuant to this section shall not be effective until the commission has adopted written findings based on substantial evidence in the record, that the action

1 is consistent with the ~~resource~~ *resources* management plan, the  
2 approved portions of local government general plans that  
3 implement the ~~resource~~ *resources* management plan, and this  
4 division.

5 SEC. 40. Section 29773 is added to the Public Resources Code,  
6 to read:

7 29773. (a) The commission may review and provide comments  
8 and recommendations to the Delta Stewardship Council on any  
9 significant project or proposed project within the scope of the Delta  
10 Plan, including, but not limited to, actions by state and federal  
11 agencies, that may affect the unique cultural, recreational, and  
12 agricultural values within the primary and secondary zones. Review  
13 and comment authority granted to the commission shall include,  
14 but is not limited to, all of the following:

15 (1) Identification of impacts to the cultural, recreational, and  
16 agricultural values of the Delta.

17 (2) Recommendations for actions that may avoid, reduce, or  
18 mitigate impacts to the cultural, recreational, and agricultural values  
19 of the Delta.

20 (3) Review of consistency of the project or proposed project  
21 with the resources management plan and the Delta Plan.

22 (4) Identification and recommendation of methods to address  
23 Delta community concerns regarding large-scale habitat plan  
24 development and implementation.

25 (b) The council shall consider the recommendations of the  
26 commission during a public hearing and shall make findings  
27 regarding whether the recommendations will be incorporated into  
28 the project and whether the recommendations are consistent with  
29 the Delta Plan.

30 SEC. 41. Section 29773.5 is added to the Public Resources  
31 Code, to read:

32 29773.5. On or before January 1, 2012, the commission shall  
33 prepare and submit to the Legislature recommendations regarding  
34 the potential expansion of or change to the primary zone. The  
35 commission shall consider recommendations on the status of all  
36 of the following areas:

37 (a) Rio Vista.

38 (b) Isleton.

39 (c) Bethel Island.

40 (d) Brannan-Andrus Island.

1 (e) Cosumnes/Mokelumne floodway.

2 (f) The San Joaquin/South Delta lowlands.

3 SEC. 42. Section 29778.5 is added to the Public Resources  
4 Code, to read:

5 29778.5. The Delta Investment Fund is hereby created in the  
6 State Treasury. Any funds within the Delta Investment Fund shall  
7 be available, upon appropriation by the Legislature, to the  
8 commission for the implementation of the regional economic  
9 development plan, developed pursuant to Section 29759, for the  
10 purposes of enhancing Delta communities. The Delta Investment  
11 Fund may receive funds from federal, state, local, and private  
12 sources.

13 SEC. 43. Section 29780 of the Public Resources Code is  
14 amended to read:

15 29780. On January 1 of each year, the commission shall submit  
16 to the Governor and the Legislature a report describing the progress  
17 that has been made in achieving the objectives of this division.  
18 The report shall include, but *need* not be limited to, ~~all both~~ of the  
19 following information:

20 ~~(a) An evaluation of the effectiveness of the resource~~  
21 ~~management plan in preserving agricultural lands, restoring delta~~  
22 ~~habitat, improving levee protection and water quality, providing~~  
23 ~~increased public access and recreational opportunities, and in~~  
24 ~~undertaking other functions prescribed in this division.~~

25 *(a) An evaluation of the effectiveness of the commission in*  
26 *undertaking its functions prescribed in this division, including,*  
27 *but not limited to, its mandates as follows:*

28 *(1) Determining the consistency of local general plans with the*  
29 *Delta Plan.*

30 *(2) Outcomes of appealed local land use decisions pursuant to*  
31 *Sections 29770 and 29771.*

32 *(3) Outcomes of reviews initiated by the commission.*

33 *(4) Facilitating regional economic development.*

34 *(5) Supporting other regional activities for the enhancement of*  
35 *Delta communities.*

36 (b) An update of the ~~resource~~ resources management plan, using  
37 baseline conditions set forth in the original resource management  
38 plan.

39 SEC. 44. Division 22.3 (commencing with Section 32300) is  
40 added to the Public Resources Code, to read:

DIVISION 22.3. SACRAMENTO-SAN JOAQUIN DELTA  
CONSERVANCY

Chapter 1. General Provisions

32300. This division shall be known, and may be cited, as the Sacramento-San Joaquin Delta Conservancy Act.

32301. The Legislature find and declares all of the following:

(a) The Sacramento-San Joaquin Delta is a unique natural resource of local, state, and national significance.

(b) At 1,300 square miles, the Delta is the largest estuary on the west coast of North and South America.

(c) Its rivers and labyrinths of sloughs and channels are home to 750 species of plants and wildlife as well as 55 species of fish, provide habitat for 700 native plant and animal species, and are part of the Pacific Flyway.

(d) The Delta contains more than 500,000 acres of agricultural land, with unique soils, and farmers who are creative and utilize innovative agriculture, such as carbon sequestration crops, subsidence reversal crops, wildlife-friendly crops, and crops direct for marketing to the large urban populations nearby.

(e) The Delta and Suisun Marsh provide numerous opportunities for recreation, such as boating, kayaking, fishing, hiking, birding, and hunting. Navigable waterways in the Delta are available for public access and currently make up the majority of recreational opportunities. There is a need for land-based recreational access points including parks, picnic areas, and campgrounds.

(f) The Delta's history is rich with a distinct natural, agricultural, and cultural heritage. It is home to the community of Locke, the only town in the United States built primarily by early Chinese immigrants. Other legacy communities include Bethel Island, Clarksburg, Courtland, Freeport, Hood, Isleton, Knightsen, Rio Vista, Ryde, and Walnut Grove.

(g) The Delta is home to more than 500,000 people and 200,000 jobs, and contributes over thirty-five billion dollars (\$35,000,000,000) to the state's economy.

(h) In addition, the Delta provides water to more than 25 million Californians and three million acres of agricultural land. It supports a four hundred billion dollar (\$400,000,000,000) economy and is

1 traversed by energy, communications, and transportation facilities  
2 vital to the economic health of California.

3 (i) A Sacramento-San Joaquin Delta Conservancy can support  
4 efforts that advance both environmental protection and the  
5 economic well-being of Delta residents in a complementary  
6 manner, including all of the following:

7 (1) Protect and enhance habitat and habitat restoration.

8 (2) Protect and preserve Delta agriculture and working  
9 landscapes.

10 (3) Undertake efforts to enhance public use and enjoyment of  
11 lands owned by the public, including linkages to areas outside the  
12 Delta.

13 (4) Provide increased opportunities for tourism and recreation.

14 (5) Promote Delta legacy communities and economic vitality  
15 in the Delta in coordination with the Delta Protection Commission.

16 (6) Increase the resilience of the Delta to the effects of natural  
17 disasters such as flood and earthquakes, in coordination with the  
18 Delta Protection Commission.

19 (7) Protect and improve water quality.

20 (8) Assist the Delta regional economy through the operation of  
21 the conservancy's program.

22 (9) Identify priority projects and initiatives for which funding  
23 is needed.

24 (10) Protect, conserve, and restore the region's physical,  
25 agricultural, cultural, historical, and living resources.

26 (11) Assist local entities in the implementation of their habitat  
27 conservation plans (HCPs) and natural community conservation  
28 plans (NCCPs).

29 (12) Facilitate take protection and safe harbor agreements under  
30 the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531  
31 et seq.) and the California Endangered Species Act (Chapter 1.5  
32 (commencing with Section 2050) of Division 3 of the Fish and  
33 Game Code) for adjacent landowners and local public agencies.

34 (13) Promote environmental education.

35 (j) The voluntary acquisition of wildlife and agricultural  
36 conservation easements in the Delta promotes and enhances the  
37 traditional Delta values associated with agriculture, habitat, and  
38 recreation.

Chapter 2. Definitions

32310. For the purposes of this division, the following terms have the following meanings:

(a) “Board” means the governing board of the Sacramento-San Joaquin Delta Conservancy.

(b) “Conservancy” means the Sacramento-San Joaquin Delta Conservancy.

(c) “Delta” means the Sacramento-San Joaquin Delta as defined in Section 12220 of the Water Code.

(d) “Fund” means the Sacramento-San Joaquin Delta Conservancy Fund created pursuant to Section 32360.

(e) “Local public agency” means a city, county, special district, or joint powers authority.

(f) “Nonprofit organization” means a private, nonprofit organization that qualifies for exempt status under Section 501(c)(3) of Title 26 of the United States Code and that has among its principal charitable purposes preservation of land for scientific, recreational, scenic, or open-space opportunities, protection of the natural environment, preservation or enhancement of wildlife, preservation of cultural and historical resources, or efforts to provide for the enjoyment of public lands.

(g) “Suisun Marsh” means the area defined in Section 29101 and protected by Division 19 (commencing with Section 29000).

(h) “Tribal organization” means an Indian tribe, band, nation, or other organized group or community, or a tribal agency authorized by a tribe, which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians and is identified on pages 52829 to 52835, inclusive, of Number 250 of Volume 53 (December 29, 1988) of the Federal Register, as that list may be updated or amended from time to time.

Chapter 3. Sacramento-San Joaquin Delta Conservancy

32320. There is in the Natural Resources Agency the Sacramento-San Joaquin Delta Conservancy, which is created as a state agency to work in collaboration and cooperation with local governments and interested parties.

1 32322. (a) The conservancy shall support efforts that advance  
2 both environmental protection and the economic well-being of  
3 Delta residents in a complementary manner, including all of the  
4 following:

5 (1) Protect and enhance habitat and habitat restoration.

6 (2) Protect and preserve Delta agriculture and working  
7 landscapes.

8 (3) Provide increased opportunities for tourism and recreation  
9 in the Delta.

10 (4) Promote Delta legacy communities and economic vitality  
11 in the Delta, in coordination with the Delta Protection Commission.

12 (5) Increase the resilience of the Delta to the effects of natural  
13 disasters such as flood and earthquakes, in coordination with the  
14 Delta Protection Commission.

15 (6) Protect and improve water quality.

16 (7) Assist the Delta regional economy through the operation of  
17 the conservancy's program.

18 (8) Identify priority projects and initiatives for which funding  
19 is needed.

20 (9) Protect, conserve, and restore the region's physical,  
21 agricultural, cultural, historical, and living resources.

22 (10) Assist local entities in the implementation of their habitat  
23 conservation plans (HCPs) and natural community conservation  
24 plans (NCCPs).

25 (11) Facilitate take protection and safe harbor agreements under  
26 the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531  
27 et seq.) and the California Endangered Species Act (Chapter 1.5  
28 (commencing with Section 2050) of Division 3 of the Fish and  
29 Game Code) for adjacent landowners and local public agencies.

30 (12) Promote environmental education through grant funding.

31 (b) When implementing subdivision (a), the conservancy shall  
32 undertake efforts to enhance public use and enjoyment of lands  
33 owned by the public.

#### 34 Chapter 4. Governing Board

35  
36 32330. The board shall consist of 11 voting members and five  
37 nonvoting members, appointed or designated as follows:

38 (a) The 11 voting members of the board shall consist of all of  
39 the following:  
40



1 (1) The Secretary of the Natural Resources Agency, or his or  
2 her designee.

3 (2) The Director of Finance, or his or her designee.

4 (3) One member of the board or a designee who is appointed  
5 by the Contra Costa County Board of Supervisors, who is a resident  
6 of that county.

7 (4) One member of the board or a designee who is appointed  
8 by the Sacramento County Board of Supervisors, who is a resident  
9 of that county.

10 (5) One member of the board or a designee who is appointed  
11 by the San Joaquin County Board of Supervisors, who is a resident  
12 of that county.

13 (6) One member of the board or a designee who is appointed  
14 by the Solano County Board of Supervisors, who is a resident of  
15 that county.

16 (7) One member of the board or a designee who is appointed  
17 by the Yolo County Board of Supervisors, who is a resident of that  
18 county.

19 (8) Two public members appointed by the Governor.

20 (9) One public member appointed by the Senate Committee on  
21 Rules.

22 (10) One public member appointed by the Speaker of the  
23 Assembly.

24 (b) The five nonvoting members shall consist of all of the  
25 following:

26 (1) A designee of the San Francisco Bay Conservation and  
27 Development Commission for coordination purposes.

28 (2) A designee of the State Coastal Conservancy for coordination  
29 purposes.

30 (3) A designee of the Suisun Resource Conservation District  
31 for coordination purposes.

32 (4) A Member of the Senate, appointed by the Senate Committee  
33 on Rules, and a Member of the Assembly, appointed by the Speaker  
34 of the Assembly, shall meet with the conservancy and participate  
35 in its activities to the extent that this participation is not  
36 incompatible with their positions as Members of the Legislature.  
37 The appointed members shall represent a district that encompasses  
38 a portion of the Delta.

39 (c) Four nonvoting liaison advisers who shall serve in an  
40 advisory, nonvoting capacity shall consist of all of the following:

(1) One representative of the United States Fish and Wildlife Service, designated by the United States Secretary of the Interior.

(2) One representative of the United States National Marine Fisheries Service, designated by the United States Secretary of the Interior.

(3) One representative of the United States Bureau of Reclamation, designated by the United States Secretary of the Interior.

(4) One representative of the United States Army Corps of Engineers, designated by the Commanding Officer, United States Army Corps of Engineers, South Pacific Division.

(d) The public member appointed by the Governor shall serve at his or her pleasure.

(e) The locally appointed members and alternates shall serve at the pleasure of the appointing board of supervisors.

(f) The public members appointed by the Senate Committee on Rules and the Speaker of the Assembly shall serve for a term of four years, with a two-term limit.

(g) The Members of the Senate and Assembly shall serve for a term of four years, with a two-term limit.

(h) Alternates may be appointed by the county boards of supervisors.

32332. Annually, the voting members of the board shall elect from among the voting members a chairperson and vice chairperson, and other officers as necessary. If the office of the chairperson or vice chairperson becomes vacant, a new chairperson or vice chairperson shall be elected by the voting members of the board to serve for the remainder of the term. The chairperson shall be selected from among the members specified in paragraphs (3) to (7), inclusive, of subdivision (a) of Section 32330.

32334. A majority of the voting members shall constitute a quorum for the transaction of the business of the conservancy. The board shall not transact the business of the conservancy if a quorum is not present at the time a vote is taken. A decision of the board requires an affirmative vote of six of the voting members, and the vote is binding with respect to all matters acted on by the conservancy.

32336. The board shall adopt rules and procedures for the conduct of business by the conservancy.

32338. The board may establish advisory boards or committees, hold community meetings, and engage in public outreach.

32340. The board shall establish and maintain a headquarters office within the Delta. The conservancy may rent or own real and personal property and equipment pursuant to applicable statutes and regulations.

32342. The board shall determine the qualifications of, and shall appoint, an executive officer of the conservancy, who shall be exempt from civil service. The board shall employ other staff as necessary to execute the powers and functions provided for in this division.

32344. The board may enter into contracts with private entities and public agencies to procure consulting and other services necessary to achieve the purposes of this division.

32346. The conservancy's expenses for support and administration may be paid from the conservancy's operating budget and any other funding sources available to the conservancy.

32348. The board shall conduct business in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

32350. The board shall hold its regular meetings within the Delta or the City of Rio Vista.

## Chapter 5. Powers, Duties, and Limitations

32360. (a) Except as specified in Section 32360.5, the jurisdiction and activities of the conservancy are limited to the Delta and Suisun Marsh.

(b) The Sacramento-San Joaquin Delta Conservancy Fund is hereby created in the State Treasury. Moneys in the fund shall be available, upon appropriation by the Legislature, only for the purposes of this division.

(1) Funds provided for ecosystem restoration and enhancement shall be available for projects consistent with the conservancy's strategic plan adopted pursuant to Section 32376.

(2) Funds provided for regional sustainability shall be available for projects consistent with the Delta Protection Commission's Regional Sustainability and Land Use Plan.

1 32360.5. In furtherance of the conservancy's role in  
2 implementing the Delta Plan, the conservancy may take or fund  
3 an action outside the Delta and Suisun Marsh if the board makes  
4 all of the following findings:

5 (a) The project implements the ecosystem goals of the Delta  
6 Plan.

7 (b) The project is consistent with the requirements of any  
8 applicable state and federal permits.

9 (c) The conservancy has given notice to and receives and  
10 reviews any comments from affected local jurisdictions and the  
11 Delta Protection Commission.

12 (d) The conservancy has given notice to and reviewed any  
13 comments received from any state conservancy where the project  
14 is located.

15 (e) The project will provide significant benefits to the Delta.

16 32362. The conservancy may engage in partnerships with  
17 nonprofit organizations, local public agencies, and landowners.

18 32363. In carrying out this division, the conservancy shall  
19 cooperate and consult with the city or county in which a grant is  
20 proposed to be expended or an interest in real property is proposed  
21 to be acquired, and shall, as necessary or appropriate, coordinate  
22 its efforts with other state agencies, in cooperation with the  
23 Secretary of the Natural Resources Agency. The conservancy shall,  
24 as necessary or appropriate, cooperate and consult with a public  
25 water system, levee, flood control, or drainage agency that owns  
26 or operates facilities, including lands appurtenant thereto, where  
27 a grant is proposed to be expended or an interest in land is proposed  
28 to be acquired.

29 32364. (a) The conservancy may provide grants and loans to  
30 state agencies, local public agencies, nonprofit organizations, and  
31 tribal organizations to further the goals of the conservancy.

32 (b) An entity applying for a grant from the conservancy to  
33 acquire an interest in real property shall specify all of the following  
34 in the grant application:

35 (1) The intended use of the property.

36 (2) The manner in which the land will be managed.

37 (3) How the cost of ongoing operations, maintenance, and  
38 management will be provided, including an analysis of the  
39 maintaining entity's financial capacity to support those ongoing  
40 costs.

1 (4) Grantees shall demonstrate, where applicable, how they will  
2 provide payments in lieu of taxes, assessments, or charges  
3 otherwise due to elements of local government.

4 32366. (a) The conservancy may acquire from willing sellers  
5 or transferors interests in real property and improve, lease, or  
6 transfer interests in real property, in order to carry out the purposes  
7 of this division.

8 (b) The conservancy may acquire a fee interest in land, but shall  
9 transfer that interest within two years of the acquisition to another  
10 public agency or a nonprofit organization.

11 32368. The conservancy may enter into an agreement with a  
12 public agency, nonprofit organization, or private entity for the  
13 construction, management, or maintenance of facilities authorized  
14 by the conservancy.

15 32370. The conservancy shall not exercise the power of eminent  
16 domain.

17 32372. (a) The conservancy may pursue and accept funds from  
18 various sources, including, but not limited to, federal, state, and  
19 local funds or grants, private philanthropy, gifts, donations,  
20 bequests, devises, subventions, grants, rents, royalties, or other  
21 assistance and funds from public and private sources.

22 (b) The conservancy may accept fees levied by others.

23 (c) The conservancy may create and manage endowments.

24 (d) All funds received by the conservancy shall be deposited in  
25 the fund for expenditure for the purposes of this division.

26 32376. Within two years of hiring an executive officer, the  
27 board shall prepare and adopt a strategic plan to achieve the goals  
28 of the conservancy. The plan shall describe its interaction with  
29 local, regional, state, and federal land use, recreation, water and  
30 flood management, and habitat conservation and protection efforts  
31 within and adjacent to the Delta. The strategic plan shall establish  
32 priorities and criteria for projects and programs, based upon an  
33 assessment of program requirements, institutional capabilities, and  
34 funding needs throughout the Delta. The strategic plan shall be  
35 consistent with the Delta Plan, the Delta Protection Commission's  
36 Regional Sustainability and Land Use Plan, the Central Valley  
37 Flood Protection Plan, the Suisun Marsh Preservation Act, and the  
38 Habitat Management, Preservation and Restoration Plan for the  
39 Suisun Marsh.

1 32378. (a) The conservancy may expend funds and award  
2 grants and loans to facilitate collaborative planning efforts and to  
3 develop projects and programs that are designed to further the  
4 purposes of this division.

5 (b) The conservancy may provide and make available technical  
6 information, expertise, and other nonfinancial assistance to public  
7 agencies, nonprofit organizations, and tribal organizations, to  
8 support program and project development and implementation.

9 32380. The conservancy may acquire water or water rights to  
10 support the goals of the conservancy.

11 32381. This division does not grant to the conservancy any of  
12 the following:

13 (a) The power of a city or county to regulate land use.

14 (b) The power to regulate any activities on land, except as the  
15 owner of an interest in the land, or pursuant to an agreement with,  
16 or a license or grant of management authority from, the owner of  
17 an interest in the land.

18 (c) The power over water rights held by others.

19 SEC. 45. If the Commission on State Mandates determines  
20 that this act contains costs mandated by the state, reimbursement  
21 to local agencies and school districts for those costs shall be made  
22 pursuant to Part 7 (commencing with Section 17500) of Division  
23 4 of Title 2 of the Government Code.

24 SEC. 46. This bill shall only become operative if \_\_\_\_ of the  
25 2009–10 Regular Session of the Legislature are each enacted and  
26 become effective on or before January 1, 2010.